Supreme Court, U.S.
FILED

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No.

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1997

STAVROS S. ZAFIRATOS;
S & F MINI FRUIT MARKET, INC.
Petitioner,

V.S.

TOWNSHIP OF MONROE TOWNSHIP; GLOUCESTER COUNTY; ESTATE OF MARTHA DRIVER; ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA; CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

PETITION FOR WRIT OF CERTIORARI

STAVROS S. ZAFIRATOS (PRO SE)
1600 N. BLACK HORSE PIKE
WILLIAMSTOWN, NJ 08094
(609) 875-1177

27 pp

QUESTIONS PRESENTED

1. a) Does the penalty for non payment of Real Estate Tax, the foreclosure of ones' property, discriminate against individuals who make a minimal, or no income?
   b) Additionally, is the penalty for non payment of Real Estate tax a violation of the New Jersey State Constitution, Article 1, Section 1, Paragraph 1?
2. a) Is Article 1, Section 1, Paragraph 1 of the Constitution of New Jersey discriminatory, since not all individuals have the income or resources to pay Real Estate Tax throughout their lives. Does this then qualify Real Estate Tax as an unreasonable and discriminatory tax imposed upon the poor, old, disabled, or unemployed?
   b) Furthermore, unlike Federal, State, and Local income taxes, Real Estate Tax being an ad valorem tax based on property value cannot adjust to an individual's income. An income that for most Americans decreases as they get older, while the individual's Real Estate Tax increases. Does this then qualify Real Estate Tax as an unreasonable and discriminatory tax toward senior citizens or individuals who become disabled or unemployed?
3. a) Is Article 1, Section 1, Paragraph 1 of the Constitution of the State of New Jersey discriminatory to individuals who own or possess property that is given to them through wills or as gifts? Is the Real Estate law, that forces an individual to sell or forfeit their property to the State because they cannot afford the imposed taxes, depriving those individuals of their rights to possess property as stated in Article 1, Section 1 Paragraph 1 of the New Jersey Constitution?
4. a) Should individuals who cannot afford to pay Real Estate Tax, be subjected to penalties and laws designed to punish individuals who try to defraud Federal, State, and Local governments by evading taxes?
5. b) Can the penalties for nonpayment of Real Estate Tax be considered *cruel* as defined by the 8th Amendment of the United States Constitution?
6. Does the Court have the authority to challenge penalties and

fines imposed by laws that discriminate against an individual, so that the individual does not have to challenge, or enter the local political system to change the laws?

7. Is the possession of property a privilege or a natural right?
8. Is the Local Government compromising the 13th Amendment, if individuals must continually work to generate an income so that they can pay the assessed Real Estate Taxes?
9. a)Does the United States Constitution have any additional Articles, sections, or clauses which state that it is allowable for Federal, State, or local governments to collect an annual tax on personal article that an individual has bought and which a tax has been previously charged when the item was originally purchased?
   b) Is land purchased considered a personal article or an item that belongs to the individual who acquired it?

SUMMATION

Are the penalties for nonpayment of Real Estate taxes, severe, unsympathetic, discriminatory, and excessively burdensome against individuals who throughout there lives have acquired, maintained, and developed a vested interest in their property and community? Should there not be some consideration in the laws that give individuals and families who have paid their Real Estate Tax in the past, but because of old age, a disability, or some other unseen tragedy cannot afford to pay the tax any more.

If so, is it up to the Court to decide if the penalties are excessive and discriminatory in which no fair or equitable relief or options are offered within the existing tax laws to the taxpayer who has created a local interests and has invested substantial time and money into the community for its preservation?

LIST OF PARTIES

All parties appear in the caption of the case on the cover page.

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No. _____

IN THE
SUPREME COURT OF THE UNITED STATES
OCTOBER TERM 1997

STAVROS S. ZAFIRATOS;
S & F MINI FRUIT MARKET, INC.
Petitioner,

V.S.

TOWNSHIP OF MONROE TOWNSHIP; GLOUCESTER COUNTY; ESTATE OF MARTHA DRIVER; ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA; CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

TO THE HONORABLE, THE CHIEF JUSTICE, AND ASSOCIATED JUSTICES OF THE SUPREME COURT OF THE UNITED STATES

Petitioner Stavros S. Zafiratos respectfully asks that a writ of certiorari issue to apply the Federal, State and City laws and their remedies to the issues on record that the Lower Courts did not address.

OPINIONS BELOW

The order consolidating Petitioner's two complaints in the United States District Court District of New Jersey are unpublished, and are reprinted in the Appendix hereto, p. A-4, *infra*.

The initial decision and order of the United States District Court District of New Jersey are unpublished, and are reprinted in the Appendix hereto, p. A-5, *infra*.

The decision, of the United States District Court District of New Jersey on Petitioner's motion for reconsideration is unpublished, and is reprinted hereto, beginning at p. A-6, *infra*.

The judgment order of the United States Court of Appeals For the Third Circuit is unpublished, and is reprinted hereto, beginning at p. A-7, *infra*.

The decision, of the United States Court of Appeals for the Third Circuit on petitioners' rehearing In Banc is unpublished, and is reprinted hereto, beginning at p. A-8, *infra*.

JURISDICTION

The petitioner has filed two complaints in The United States District Court against the Township of Monroe and other parties including other holders of tax sale certificates on Petitioners' property. The two United States District Court cases were consolidated under Docket No. 95-3605. The Petitioners' complaint alleges, among other things, that the imposition and collection of Real Estate Tax violates an individual's right to own property. The Petitioner filed a Motion for Injunctive Relief in the United States District Court requesting a Stay of the New Jersey foreclosure proceeding in the United States District Court and had a hearing on December 15, 1995. The United States District Court Judge denied the petitioners' Motion to Stay the State Court proceeding and dismissed the Petitioner's complaints. The Petitioner filed a Notice of Appeal on January 25, 1996. The Petitioner appealed to the United States Court of Appeals for the Third Circuit and said appealed was denied on October 22, 1996. The Petitioner filed a

rehearing In Banc to the United States Court of Appeals for the Third Circuit which was denied on November 18, 1996.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Petitioner is preceding in Federal Court under the Federal and New Jersey State Constitutional provisions set below;

The Constitution of the United States, Amendment V

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or Naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived or life, liberty or property, without due process of the law; nor shall private property be taken for public use, without just compensation.

The Constitution of the United States, Amendment VIII

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

The Constitution of the United States, Amendment XI

The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against ane of the United States by Citizens of another State, or by Citizens or Subjects of any Foreign State.

The Constitution of the United States, Amendment XIII
Section 1

Section 1. Neither slavery nor involuntary servitude, except as a punishment for a crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

The Constitution of the United States, Amendment, XIV
Section 1

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States; nor shall any States deprive any person of life, liberty, or property, without due process of law; nor deny any person within its jurisdiction the equal protection of the laws.

The Constitution of the United States, Amendment XXIV
Section 1

Section 1. The right of citizens of the United States to vote in any primary or other election for President or Vice President, for electors for President or Vice President, or for Senator of Representative in Congress, shall not be denied or abridged by the United States or any State by reason of failure to pay any poll tax or other tax.

The New Jersey State Constitution, Article 1, Section 1

All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and pursuing and obtaining safety and happiness.

STATEMENT OF THE CASE

I. THE LOCAL PROPERTY TAX VIOLATED EQUAL PROTECTION OF THE LAW BECAUSE IT IS NOT BASED ON AN INDIVIDUALS INCOME.

The Real Estate Tax law does not allow the Petitioner to own land, but to constantly pay a *rent* on the land, and if Petitioner's income cannot support the payment of the imposed property tax the Petitioner must then forfeit his land. The imposed Real Estate Tax laws make the foundations of Democracy and the American Dream, the ideas that sow the seeds for the hope and beliefs that property can be possessed by any individual who has the ability and resources to do so, an illusion and fallacy.

The imposed real estate taxes are similar to a Poll Tax which is discriminatory against property owners that do not have income in which to pay those taxes, thus these low income property owners, being individuals or corporations, cannot hold property or retain ownership of property because of these taxes, challenging the 24th Amendment of the United States Constitution.

Because of the Real Estate Tax, investors can purchase tax sale certificates for a few thousand dollars, which the low income property owner cannot afford to pay. As a result, the low income property owner may end up losing property worth several hundred thousands of dollars which is unconscionable and undemocratic.

Is it allowable based upon the United States Constitution, for the City, County, State, or the United States Government, to have the authority to place a form of tax on the Petitioner, based on his ability to purchase property in the past, without any consideration of an individual's present income, or any burdens, may they be physical or mental, that might be placed on the individuals so that they can supplement their income to keep the property from being foreclosed? If the State, County, and/or Municipality can foreclose, which in this case they did, then the Petitioner is not an equal American citizen, based on his income.

Therefore, the conclusion should then be reached that Real Estate Tax discriminates based on income. It makes the

impoverished individual, who cannot pay the tax, lose their property, forcing them to move into trailer parks, or low rent apartments, or in extreme cases they are forced to live on the streets. However, a wealthy individual can afford to pay his own Real Estate Tax thus keeping his property, and on occasion purchase a tax certificate through a foreclosure and then reselling the property becoming richer.

This is clear violation of the Equal protection clause under the law, 14th Amendment of the United States Constitution. The Real Estate Tax law is making a clear statement that the right to use and enjoy property is to be based solely on an individual's income. Overall, the law is stating that; if one cannot afford to pay Real Estate Tax, then that individual or group cannot possess property.

It then should be considered discriminatory for a Local Government to impose a tax without any regard to an individual's income, and in which would deny that individual his unalienable right to possess property.

My income per year is $8,292, the property taxes I pay in order to keep my property from being foreclosed because of delinquent property taxes is $5,843 per year. I pay $486 per month in property tax so I can keep my home. Social Security pays me $691 per month. Based on these figures I then have approximately two hundred and four dollars left that my wife and I must live on.

The State of New Jersey and the Local Municipality is unsympathetic toward people who have a minimal or no income. Therefore, taking advantage of people in this situation is easy. The State's duty is to protect the citizens of the State, not to subject the citizens to harm. If the State has no compassion over its citizens, then the Federal Government should protect and uphold the beliefs that the poor, old, disabled, and their families may and should possess property without paying a yearly tax to keep their property from being foreclosed.

II. THE PETITIONER IS NOT DISPUTING THE STATES RIGHT TO COLLECT REAL ESTATE TAX. BUT ON THE PENALTIES PLACED ON AN INDIVIDUAL IF NOT PAID.

The Petitioner in this case is not arguing against the tax law as a vehicle to collect monies to pay for services provided by the Local Government. Vehicles to support the Local Government can be created, such as, the monies derived at the time a property is purchased may be distributed to pay for the needed services provided by the local governments, or the State through its Income Tax can distribute money to the Municipalities in some fair and equitable manner.

The Petitioner in this case is not arguing against the Monroe Township's assessment of the Real Estate taxes of the Petitioner's property. The Petitioner in this case is not seeking any refund from the taxing government. Since this lawsuit is not an attempt to collect money damages from the Township, County, or State of New Jersey, then the 11th Amendment of the United States Constitution does not apply.

The Petitioner in this case is arguing that the Real Estate Tax Laws do not allow an individual of a low income to keep or possess land. If an individual cannot pay his Real Estate Tax, the outcome will be foreclosure and loss of his property. The only options are foreclosure or the payment of the tax in full. The Real Estate Tax Law has no provision that allow a 'payment plan' the outstanding tax. The State of New Jersey's relief for delinquent Real Estate Tax is foreclosure, which violates the State's own Constitution Article 1, Section 1, Paragraph 1,

'All persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property, and pursuing and obtaining Safety and happiness.'

The penalties for not paying Real Estate Tax violate all the ideals set forth by the Sates First Article. The Petitioner is

challenging the right of the Township and State to deny individuals right to possess property, and challenges the Township and States right to foreclose on an individual's property, because that individual does not have the income he or she had when they first bought the property, or for any number of other possible circumstances.

One hears about how private and governmental organizations are trying to eliminate the homeless, but then on the other hand the Real Estate Tax laws create homelessness. The Real Estate Tax law forces individuals to work so that the can keep possession of their property violating the 13th Amendment of the United States Constitution. The individual is forced into involuntary servitude by the State so that the individual can create the needed income to pay their Real Estate Tax. If an individual decided to stop working and live off the land they possess, they cannot do so, thereby limiting their rights to liberty and prosperity.

In today's economy it is not difficult to think of any number of circumstances that can financially destroy a family. If the family is not resourceful enough or make the proper sacrifices the inevitable result will be the loss of their home. In today's society this is unacceptable, and it is up to the Court to decide if a family with a limited income is to lose their home.

The penalties are not only for those who *refuse* to pay the Real Estate Tax, but also, for the individual who cannot *afford* to pay the tax. The law and its penalties do not recognize the difference between neediness and unwillingness. Again, the existing State and Local Government Real Estate policy is; if one cannot afford to pay Real Estate Tax, then that individual or group cannot possess property.

III. THE DISTRICT COURT ERRED IN DISMISSING PETITIONER'S COMPLAINTS BASED ON ITS RELIANCE ON LAWRENCE V. STATE TAX COMMISSION OF MISSISSIPPI AND KIRTLAND V. HOTCHKISS.

The United States District Court Judge dismissed Petitioners' complaints based on the United States Supreme Court's decisions in the cases of Lawrence v. State Tax Commission of Mississippi, 286 US 276 and Kirtland v. Hotchkiss, 100, US 491. The Judge stated he had to dismiss Petitioners' complaint because "the United States Supreme Court has upheld the constitutionality of Real Estate Taxes." The United States District Court Judge incorrectly stated that the Petitioner challenge the Government's right to tax property through any avenue. This is not correct. The Petitioner only contests the payment of a Real Estate Tax annually based on the assessment of the property. The Petitioner does not contest that a tax on property would be improper if done at the time of the property was purchased.

The Supreme Court in Lawrence V. The State Tax Commission of Mississippi, relies on Kirtland v. Hotchkiss for the premise that the Supreme Court cannot afford the citizen of a state relief from the enforcement of her laws prescribing the mode and substance of taxation unless it is so palpably arbitrary or unreasonable as to infringe the 14th Amendment. The Supreme Court in Kirtland did state that the State's ability to prescribe the mode and subjects of taxation can be limited if they trench upon the Federal authority or violate any right recognized or secured by the Constitution of the United States.

The imposition and collection of real estate tax annually based on the assessment of Petitioners' real property by the Township of Monroe is clearly oppressive and unreasonable because it does not take into consideration the income of an owner of property, nor consideration that the Petitioner is not an equal American citizen compared to the wealthy class who can posses property only because the wealthy can afford to pay the Real Estate tax, which is in clear violation of the 14th Amendment of the United States Constitution.

The penalty for non-payment also violates the 5th Amendment of the United States Constitution, since the penalties for non-payment of Real Estate Tax is at a higher cost than the payment of the tax originally due.

If property is confiscated and sold for the back taxes, the Local Municipality should sell the property at its real market value, in which the individual whose property they foreclose should receive the money in excess of the taxes owed. The penalties for non-payment of taxes exceed the value of the back due tax and the foreclosure is an unfair transaction performed by the Local government, resulting in a windfall to the Local Municipality and the purchaser of the Land.

If two property owners both owe $10,000 in unpaid taxes, and they both get foreclosed this is fairness of the law. However, if one individual's house and land is valued at $50,000 and the other individual's house and land is valued at $200,000. Does the Real Estate Laws then not violate Equal protection under the law and its fairness?

A home to many Americans is not an investment, the value of a house can increase or decrease, people posses land to raise their children, and live out their lives peacefully and happily. An American Citizen in today's society should be able to sell their home unless they *want* to, not because they are *forced* to.

REASONS FOR GRANTING

The State and Local Municipalities designed Real Estate Tax to pay for services to make the lives of the property owners more productive. Thus giving them better schools, better roads, and cleaner streets, not to deprive them of there properties. When an individual's property is confiscated by a governmental agency for the lack of paying income tax or for the possession of narcotics or some other *crime*, then the action warrants the seizure. However, if an individual cannot afford to pay the property tax that person should not be allowed to lose their property. In the Real Estate Law being poor is a crime, a crime that denies the individual the right to

keep property that they once could afford.

The taxes needed to run services for local governments should not be based on the value of an individual's property. It might be acceptable to place an ad valorem tax on a *want item* (an automobile) but not on a *need item* (house and property).

If a person works hard to pay his bills and obligations, invests in the community, raises their children to be productive citizens, and leads a decent life, but does not make enough money to pay the Real Estate Taxes, or the retired widow who lives on a large farm that she and her husband worked hard to buy, has her pension fund crashed and all she has to live off is Social Security, or any other hardship story, why should they be punished so severely by having their home taken away from them and being forced to move somewhere where their income allows them to live?

Laws that make individuals abandon their friends and all their investments made in the community, and move to a different community that they have no interest in is unconscionable, inequitable, and is violation of our Constitutional Rights.

In today's society, would a person not consider the foreclosure proceedings as a cruel and unusual punishment, for the crime of being poor? The 8th Amendment of the United States should protects its citizens from this unjust behavior shown by the Real Estate Tax laws in our government. Punishment for a crime must fit the crime, but the question is asked again is being poor a crime that the Government must punish?

I feel that I am not a free independent citizen of the United States, but a slave without shackles, I worked and waited for my retirement all my life and paid off my property. Now that I am retired and have my own property that I worked so very hard for, the government is trying to take it away based on my lack of income, and the government in turn will transfer my property to a person with a higher income. This is not fair.

Hundreds of other American Citizens find themselves in the situations similar to my own. These people will also have to forfeit their properties due to their lack of income or an inability to pay their property taxes. Because, this case is a questions very controversial issues, the Court should consider this case for a hearing and rule on the fate of all American Citizens who posses

property and a home. Can an American Citizen possess property without the fear of losing it? Or, does the Government own all the land making its citizens pay a *rent* for the ground, and forcing them to work forever so they can live on it?

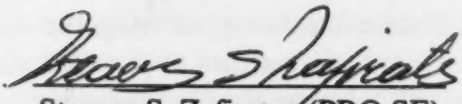
– As an impoverished individual I respectfully request and beg the Court to hear this case in hope that it will be considered a LANDMARK CASE and thus, REPRESENTS A SIGNIFICANT IMPORTANCE TO THE PUBLIC INTEREST. We live in a free nation in which possession of property should be a right, just as a fair and just sentencing is a right. In ancient Greece, Lycurgus the leader of Sparta created a law in which the elderly and lame must jump off a cliff so that the young could live better and there would be more food. Real Estate Taxes are offering the same death sentence to the people who cannot afford to pay their taxes. You either pay your tax, or will be thrown out on the streets, and there is no other choice for those who cannot raise the capital to pay their back taxes. This treatment and punishment cannot be allowed in today's society.

To conclude, let me say that I believe owning property is not a privilege, or a choice, it is a natural right. The political philosopher John Locke, stated it "The right to property is a natural right superior to human law," and that natural rights "are born with us; and cannot be taken away from us by any human power." I pray that the Court also believes in this philosophy. This great nation of ours was created by the need for people to possess land and settle down, should a person not have the same right in today's society? Having the United States SUPREME COURT address these issues and apply the respective remedies will send a message to all taxpayers that THIS TYPE OF DISCRIMINATION AND ABUSE TOWARD THE POOR, OLD, AND DISABLED, WILL NOT BE TOLERATED IN THE UNITED STATES OF AMERICA AND THAT ALL AMERICANS ARE TRULY FREE AND EQUAL.

CONCLUSION

The petition for writ of certiorari should be granted for the foregoing reasons.

Respectfully submitted,



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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STAVROS ZAFIRATOS,	)	
PETITIONER,	)	Civil Action
vs.	)	No. 95-3605
TOWNSHIP OF MONROE, et al.,	)	
Defendants.		

S & F MINI FRUIT MARKET INC.,et al.,	)	
Plaintiffs,	)	Civil Action
v.	)	No. 95-4419
STATE OF NEW JERSEY, et al.,	)	
Defendants		

ORDER OF CONSOLIDATION

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STAVROS ZAFIRATOS,	)	
S & F MINI FRUIT MARKET INC	)	
PETITIONER,	)	Civil Action
v.	)	No. 95-3605
TOWNSHIP OF MONROE, et al.,	)	
Defendants.		

ORDER

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STAVROS ZAFIRATOS,	)
S & F MINI FRUIT MARKET INC	)
PETITIONER,	)Civil Action
	)No. 95-3605
v.	)
TOWNSHIP OF MONROE, et al.,	)
Defendants.	

ORDER

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

STAVROS S. ZAFIRATOS;	)Civil Case
Petitioner,	) No. 96-5107

V.S.

TOWNSHIP OF MONROE; GLOUCESTER COUNTY; ESTATE OF MARTHA DRIVER; ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA; CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents.

STAVROS S. ZAFIRATOS, PRESIDENT
S & F MINI FRUIT MARKET, INC.
Petitioner,
V.S.
STATE OF NEW JERSEY; ALBERTSON, WARD & MCCAFFERY; GLOUCESTER COUNTY; ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA; CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents. JUDGMENT ORDER

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

STAVROS S. ZAFIRATOS;)Civil Case
Petitioner,) No. 96-5107
V.S.
TOWNSHIP OF MONROE; GLOUCESTER COUNTY;
ESTATE OF MARTHA DRIVER; ALMA ALEXANDER;
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JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents.

STAVROS S. ZAFIRATOS, PRESIDENT
S & F MINI FRUIT MARKET, INC.
Petitioner,
V.S.
STATE OF NEW JERSEY; ALBERTSON, WARD &
MCCAFFERY; GLOUCESTER COUNTY;
ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA;
CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER;
JACK LUBY;
Respondents.

SUR PETITION FOR REHEARING

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STAVROS ZAFIRATOS,	)	
PETITIONER,	)	Civil Action
vs.	)	No. 95-3605
TOWNSHIP OF MONROE, et al.,	)	
Defendants.		
S & F MINI FRUIT MARKET INC.,et al.,	)	
Plaintiffs,	)	Civil Action
w.	)	No. 95-4419
STATE OF NEW JERSEY, et al.,	)	
Defendants		

ORDER OF CONSOLIDATION

This matter having been opened to the court on its own motion and the court having reviewed the complaints in the above-captioned matters, and having determined that each consists of similar issues;

IT IS on this 8th day of September, 1995 ORDERED that Civil Actions 95-3605 and 95-4419 be consolidated for all purposes under Civil Action No. 95-3605.

By: s/_____
Joseph H. Rodriguez
U.S.D.J.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STAVROS ZAFIRATOS,	)
S & F MINI FRUIT MARKET INC	)
PETITIONER,	)Civil Action
	)No. 95-3605
v.	)
TOWNSHIP OF MONROE, et al.,	)
Defendants.	
	ORDER

This matter is before the court on the motion of Petitioner seeking a stay of the state court foreclosure proceedings on plaintiff's property until this court decides plaintiff's pending federal complaint. Plaintiff's complaint alleges that property taxes are unconstitutional. After reviewing the submissions, and hearing argument by the parties on December 15, 1995, for the reasons expressed on the record, it is

On this 15th day of December, 1995,

ORDERED that plaintiff's motion for a stay of the state court proceeding is DENIED; it is further

ORDERED that plaintiff's complaint is DISMISSED

By: s/_____
Joseph H. Rodriguez
U.S.D.J.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STAVROS ZAFIRATOS,	)
S & F MINI FRUIT MARKET INC	)
PETITIONER,	)Civil Action
	)No. 95-3605
v.	)
TOWNSHIP OF MONROE, et al.,	)
Defendants.	

ORDER

Petitioner previously sought a stay of the state court foreclosure proceedings on his property until this court decided Petitioner's pending federal complaint. After reviewing the submissions of the parties and hearing oral argument, this court dismissed Petitioner's complaint on December 15, 1995. This matter is again before the court in consideration of the Petitioner's "letter brief in lieu of a more formal brief in opposition to the defendants motion to dismiss Petitioner's complaint" filed December 22, 1995. Because of the date of submission of the brief, filed a week after dismissal of the complaint, we will consider the brief as a motion for reconsideration. However, because the brief contains no new arguments and merely restates the Petitioner's position advanced during oral argument before this court on December 15, 1995, it is

On this 4th day of January, 1996,

ORDERED that Petitioner's motion for reconsideration is DENIED.

By: s/ _____
Joseph H. Rodriguez
U.S.D.J.

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

STAVROS S. ZAFIRATOS;)Civil Case
Petitioner,) No. 96-5107
V.S.
TOWNSHIP OF MONROE; GLOUCESTER COUNTY;
ESTATE OF MARTHA DRIVER; ALMA ALEXANDER;
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JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
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STAVROS S. ZAFIRATOS, PRESIDENT
S & F MINI FRUIT MARKET, INC.
Petitioner,
V.S.
STATE OF NEW JERSEY; ALBERTSON, WARD &
MCCAFFERY; GLOUCESTER COUNTY;
ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA;
CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER;
JACK LUBY;
Respondents.

JUDGMENT ORDER

Before: Greenburg, Lewis, and McKee, Circuit Judges

After consideration of the contentions raised by appellant, it is

ADJUDGED and ORDERED that judgments of the district count entered January 16, 1996 be and are hereby affirmed.

Costs taxed against appellant.

s/_____
Circuit Judge

Attest:
s/_____
P. Douglas Sisk, Clerk

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

STAVROS S. ZAFIRATOS;)Civil Case
Petitioner,) No. 96-5107
V.S.
TOWNSHIP OF MONROE; GLOUCESTER COUNTY;
ESTATE OF MARTHA DRIVER; ALMA ALEXANDER;
JEANNETTE MOYER; JACK RUBBA; CHARLES FIORE;
JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents.

STAVROS S. ZAFIRATOS, PRESIDENT
S & F MINI FRUIT MARKET, INC.
Petitioner,
V.S.
STATE OF NEW JERSEY; ALBERTSON, WARD &
MCCAFFERY; GLOUCESTER COUNTY;
ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA;
CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER;
JACK LUBY;
Respondents.

SUR PETITION FOR REHEARING

Before: Sloviter, Chief Judge, and Becker, Stapleton, Greenburg, Scirica. Cowen, Nygaard, Alito, Roth, Lewis, McKee, and Mansmann; Circuit Judges

The petition for rehearing filed by appellant, Stavros S. Zafiratos, in the above captioned matter having been submitted to the judges who participated in the decision of this court and to all other available circuit judges of the court in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is defined.

s/_____
Circuit Judge

(2)

Supreme Court, U.S.
FILED
MAR 31 1997
OFFICE OF THE CLERK

No. 96-1309

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1997

STAVROS S. ZAFIRATOS;
S & F MINI FRUIT MARKET, INC.
Petitioner,

V.S.

TOWNSHIP OF MONROE TOWNSHIP; GLOUCESTER COUNTY; ESTATE OF MARTHA DRIVER; ALMA ALEXANDER; JEANNETTE MOYER; JACK RUBBA; CHARLES FIORE; JAMES ATKINSON; ALBERT DRIVER; JACK LUBY;
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO
TO THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

SUPPLEMENTAL BRIEF IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI

STAVROS S. ZAFIRATOS (PRO SE)
1600 N. BLACK HORSE PIKE
WILLIAMSON, NJ 08094
(609) 875-1177

QUESTIONS PRESENTED

I. Is forcing people to leave their communities due to lack of income similar to exclusionary zoning, which is unconstitutional in New Jersey?

II. Does Real Estate Tax discriminate against the poor?

III. Should individuals be forced by Local and State Governments to continuously work, so that they would be able to pay Real Estate Taxes?

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Civil Rights Act of 1866, Title VIII of the Civil Rights Act if 1968 (Fair Housing Act) 42 U.S.C.S. 3601 et seq., and Title VI of the Civil Rights Act of 1964, 42 U.S.C.S. 2000d et seq. 4

PRELIMINARY STATEMENT

New Jersey's waiver to submit a brief in opposition to Petitioner's petition for writ of certiorari dated March 11, 1997, has the State of New Jersey arguing that, "real property tax, like all ad valorem taxes, is measured by the value of the real property being taxed rather than by the income of the property owner." Should income not be a factor when deciding on Due Process? Just because a law is applied equally to all citizens it does not make it a just law. I am not taking the State of New Jersey and the Local Government to court because I do not accept the ideas behind ad valorem taxes in general, or because I disagree with the methods for collection of ad valorem taxes. What is being argued are the penalties for being unable to pay an ad valorem tax on Real Estate, the never ending payments for an ad valorem tax on Real Estate, and the Civil Rights violated by an ad valorem tax on Real Estate if the income of the property owner is not taken into consideration.

I do not want to lose my property. I worked long and hard to pay for it. Is it wrong for me to want to fight to keep my property and to live the rest of my life in my house without fear of losing it? Is it wrong knowing that no matter what misfortune may befall me I would know that I would always have a home to return to? All I ask is that the Court consider that the idea of an ad valorem tax on Real Estate creates an unnecessary hardship for all Americans that are elderly, those who have a minimal income, and citizens who already face hardships every day of their lives.

Society and the Government will not collapse, as some people think, if the ad valorem tax on Real Estate is modified to provide relief for indigent people. A home is not like a car, a boat, or jewelry that one can live without, but a person cannot live and should not have to live without a home. I do not agree

with the State of New Jersey's remark that this is a frivolous case. In today's society hundreds of poor individuals and families lose their homes, even though they have paid off their mortgage. When considering Due Process, I would hope that the Court would consider income as a factor. It should not matter how much money an individual saves or earns, because when it comes to an ad valorem tax on Real Estate the law should not be blind to a persons income. I am clearly discriminated against, and treated unfairly as an American Citizen due to the Real Estate Laws. The State furthermore overlooks four important consequences created by an ad valorem tax when applied to Real Estate.

STATEMENT

I. If individuals are forced to vacate their properties and homes the individuals lose all vested interest in their property and to their community.

When a individual buys a house and property to live in, they add to the community. They support the local community, government, services and businesses. They further develop their homes and land making the community stronger and better for all the people in the community. But if a tragedy befalls the individual, and the Real Estate tax cannot be paid, all they have created and paid for is lost. The individual or family is unfairly and wrongly forced to abandon their home, community, and friends and move to an area in which they can afford to pay the amount of Real Estate Tax imposed. This results in excluding indigent people from living in certain communities due to their

lack of income, which is similar to exclusionary zoning which was declared unconstitutional in New Jersey. Southern Burlington County N.A.A.C.P v. Township of Mt. Laurel, 67 N.J. 151 (1975).

II. Individuals that have their property foreclosed and who cannot relocate in an affordable home in their township lose all voting ability in which to change their local Real Estate Law.

My monthly social security check is $691.00 a month, which does not allow me to relocate with in my community. The most inexpensive apartment in Monroe Township, NJ is $935.00 per month with the tenant paying all utilities. The five least inexpensive apartments are listed in Appendix A, and only two apartments were available as of March 27, 1997 in the Monroe Township area. I cannot afford any of the apartments listed. I am then forced to move into a new township with lower rents or Real Estate Tax. According to State Election Laws I could not even live in a motel and still be a registered voter in New Jersey as stated in N.J.S.A. 19:4-1,

> "In order for person to acquire domicile, it is necessary that there be intention not only to live at the place but also to make a home there."

and Michaud v. Yeomans, 115 N.J. Super. 200, 278 A.2d 537 (L.1971)

III. Real Estate Tax laws discriminate against the poor, segregating them into areas in which they can afford to live, violating the Civil Rights Acts and the Fair Housing Act.

If I am forced to move from my home, the only place I could afford to move to would be in a different Township. Where the people around me would posses the same income as myself. The Real Estate Tax laws create High, Medium, and Low income zones. If I cannot afford the proposed Real Estate Tax, I am forced by the Local Government to sell my home and any of my belongings that I cannot carry, and move into a lower income area. *De Jure Segregation* is created by the ad valorem tax on Real Estate, State es rel. Citizens Against Mandatory Bussing v. Brooks, 80 Wash.2d 121, 492 P.2d 536, 542.

Likewise if a low income family inherits a home in a highly taxed area they could not move there because there income is minimal and the Real Estate tax would exceed their means, even though they could have a better life for themselves and their children. Again, since an ad valorem tax exists on property and homes and the tax does not consider income as a factor, it allows discrimination and segregation of American Citizens, placing them into zones based on their income, which violates Federal Civil Rights Acts, Civil Rights Act of 1866, Title VIII of the Civil Rights Act if 1968 (Fair Housing Act) 42 U.S.C.S. 3601 et seq., and Title VI of the Civil Right Act of 1964 42 U.S.C.S. 2000d et seq..

IV. Individuals are forced by the Local and State Governments to indefinitely work in order to pay proposed Real Estate Taxes.

To keep a home and land one must always work to bring in an income. If a person cannot generate sufficient income to pay their Real Estate Taxes they will lose their house. I worked hard all my life to create my home and raise my children in a proper way. At age 62, like most Americans I retired. I receive enough from Social Security for me and my wife to eat, pay our utilities, and live a modest life. What little remains of my check is not enough to pay my assessed Real Estate Tax. Should I then be force to sacrifice my Health Care or another need so that to pay the Real Estate Tax? During my working days I paid my taxes and did what was required of me as an American Citizen. As my reward my property has been foreclosed. The Foreclosure notice and Eviction notice are copied in Appendixes B and C.

What am I supposed to do? I either move away, or I am forced to work again. To keep my property I must find some job that pays me enough to reach an income which allows me to retain my monthly Social Security payments without any reduction. Real Estate Tax Laws does not allow me to retire unless I forfeit my property and community, which strips me an American Citizen of all my pride and accomplishments.

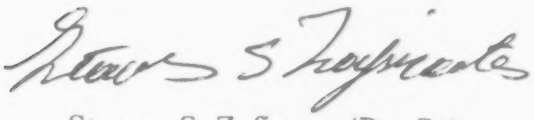
Creating and maintaining a home was a goal which I have struggled for and *thought* I had achieved. Was I wrong in this assumption? I pray I was not.

Conclusion

For the reasons advanced above, and in the Petition, the writ of certiorari should be granted.

Dated: Williamstown, New Jersey
March 28, 1997

Respectfully submitted



Stavros S. Zafiratos (Pro Se)

Appendix A

List provided by Century 21 Realtors.

Tax District	Monthly Rent	Utilities payed by tenant	Deposit
Washington*	595.00	Yes	893.00
Washington*	600.00	Yes	900.00
Winslow*	695.00	Yes	1045.00
Monroe	935.00	Yes	1425.00
Monroe	1000.00	Yes	1500.00

* Adjoining Townships.

Appendix B

IN MATTER OF FORECLOSURE OF TAX SALES CERTIFICATES PURSUANT TO THE PROVISIONS OF N J S A 54:5-104 29 ET SEQ BY THE TOWNSHIP OF MONROE, IN THE COUNTY OF GLOUCESTER, A MUNICIPAL CORPORATION OF THE STATE OF NEW JERSEY Plaintiff VS. 1 Block 607, LOT 6 ON THE TAX MAP OF THE TOWNSHIP OF MONROE ASSESSED TO S&F MINI MARKET Defendant	SUPERIOR COURT OF NEW JERSEY GLOUCESTER COUNTY CHANCERY DIVISION CIVIL ACTION DOCKET NO. F-12832-95 FINAL JUDGMENT

THIS CAUSE being opened to the Court by Robert T. Orr, Esquire, attorney for Plaintiff, and it appearing that Plaintiff filed its Complaint pursuant to the provisions of N.J.S.A. 54:5-104.29 et seq., as amended and rules if this court concerning such practice and procedure to foreclosure in rem certain tax sales certificate as follows:

Certificate of Tax

Sch#	Sale Recorded in Book & Page	Owner of Last Tax Duplicate	Description on Tax Duplicate and Certificate
2	1997	S&F Mini Market	Block 607, Lot 6

It appearing that notice of this foreclosure in the form prescribed by said statute and the rules of this Court was published once in the Gloucester County Times; a newspaper circulating in the Township of Monroe, the municipality wherein the lands to be affected are located, and if further appearing that no answer has been filed in this case by any person having or claiming any right, title or interest in or to, or lien upon any parcel of land described in the Complaint filed herein within the time fixed by said statute, and it appearing that the plaintiff has filed a copy of the complaint in the office of the Clerk and the County of Gloucester, in the office of the Tax Collector of Monroe Township and in the office if the Attorney General if the State of New Jersey, and the Court having read and considered the certified Complaint filed herein, together with the proofs of publication, posting and mailing, of said notice of foreclosure, and the Affidavit showing there has been no redemption of any of the tax sale sale certificates: and the Court being satisfied and having determined that there has been compliance with dais statutes.

IT IS thereupon, on this 1st day of April, 1996, ORDERED AND ADJUDGED that all persons having a vested or contingent title or interest in or lien or claim upon or against: said lands, including the State of New Jersey, and any agency and political subdivision thereof, and their heirs, devisees and personal representatives and their or person, and all other person, their heirs, devisees and personal representatives and their or any of their heirs, devisees, executors, administrators, grantees, assigns or successors, in right title or interest, be barred of the right of redemption and be foreclosed of all prior or subsequent alienations and descents of said lands and encumbrances thereon, and that an absolute and indefeasible estate of inheritance in fee simple in said lands be vested in the Plaintiff, Township of Monroe, in the County of Gloucester, a municipal corporation of the State of New Jersey. All or a portion of some or all of the

properties referred to herein may be claimed by the State of New Jersey as land now or formerly flowed by the mein high tide. The State has not waived its immunity from suit. This judgment is not binding on the State, with regard to the tide lands and does mot extinguish the paramount title to any tide lands.

Schedule#	Transferce of Purchaser of Title	Date of Instru-ment	Date Rec'd	Book/Page
2	S&F Mini Fruit Market Inc. Stavros S. Zafiratos	6/18/97	1/17/97	1961/272

s/_____

Samuel D. Lenox, JR., J.S.C.

APPENDIX C

MONROE TOWNSHIP,	)	SUPERIOR COURT OF
	)	NEW JERSEY LAW
Plaintiff,	)	DIVISION GLOUCESTER
	)	COUNTY
vs.	)	
	)	DOCKET NO: L-1709-96
S&F MINI MARKET and	)	
STAVROS ZAFIRATOS	)	Civil Action
	)	
Defendant.	)	Order for Summary Judgment

THIS MATTER having been opened to the Court on Motion for Summary Judgement filed by Charles A. Fiore, Esquire, attorney for Plaintiff, Monroe Township, and notice having been given to the Defendants, and the Court having read and considered the papers filed, including Defendant's objections to the form of the order, and having made findings of the fact and conclusions of law, and for other good cause shown;

IT IS on this 5th day of February, 1997 ORDERED that Plaintiff's Motion for Summary Judgment is hereby GRANTED.

IT IS FURTHER ORDERED that the defendant shall have thirty (30) days from the Court date of January 24th, 1997 to vacate the premises, a warrant for Removal may issue and be served through the Gloucester County Sheriff's Department.

s/ _____
JOHN S. HOLSTON, JR., J.S.C.